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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,172	06/12/2001	Ulrich Muller	(MULL 101) 0329-0008	6526
26568	7590	05/18/2007		
COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD SUITE 2850 200 WEST ADAMS STREET CHICAGO, IL 60606			EXAMINER DESIRE, GREGORY M	
			ART UNIT	PAPER NUMBER
			2624	
			MAIL DATE	DELIVERY MODE
			05/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/787,172

Applicant(s)

MULLER ET AL.

Examiner

Gregory M. Desire

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/23/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communication filed 2/23/07.

Response to Amendment

2. Examiner acknowledges arguments filed 2/23/07. The arguments were not persuasive, thus examiner maintains the rejection.

Response to Arguments

3. Applicant argues (remarks page 6 lines 9-11) newly cited task reference is not analogous prior art. In response to applicant's argument that Kuhn et al is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Bullock and Kuhn are in the same field of endeavor, which is optics the measuring and testing.

4. Applicant argues (remarks page 8 lines 4-9). Task does not disclose viewing the pattern on the metal strip with a camera or otherwise. Task does not disclose object or pattern beyond transparency. Task does not disclose determining the geometry of the metal strip base on the produced pattern. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references

individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bullock et al (5,488,478) in view of Task et al (4,623,258).

Regarding method claim 14 Bullock discloses,

Measuring the geometry and surface unevenness of one side of a moving metal strip (which reads on measuring the shape and surface flatness of steel strip of col. 1 lines 30-32 and col. 2 lines 38-40 cites the strip as a moving strip) by producing a pattern on that one side of the surface to be measured (which reads on producing on the object surface a plurality of light patterns on col. 1 line 39), using a light source (note fig. 1 block 3 in connection with col. 3 lines 13-16, laser light source) and a camera (note fig. 1 block 5 in connection col. col. 2 lines 44-45, line scan camera) characterized in that the pattern is produced on the surface 4 (note col. 2 lines 40-44, surface of the strip).

Bullock teaches using different light sources for projection. However Bullock does not clearly disclose wherein the projection is with the aid of a transparency. Task discloses pattern produced to be measured by projection with the aid of transparency (note fig. 1a, 14, transparency and col. 4 lines 45-50, Task teaches projection with transparency). Bullock & Task are combinable because they are from the same field of endeavor. At the time of the invention, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to use a light source which projects with the aid of transparency in the system of Bullock as evidenced by Task. The suggestion/motivation for doing so would have been measuring haze index (note col. 2 lines 43-60). Therefore, it would have been obvious to combine Bullock with Task to obtain the invention as specified in claim 14.

Regarding method claim 15 Bullock and Kuhn disclose,

The pattern is produced with aid of liquid crystal device (note Kuhn col. 3 lines 33-34, pattern generator produce pattern with liquid crystal device).

Regarding method claims 16 and 20 Bullock and Task disclose

Elastic form changes are filtered using the initially detected peaks and the peaks and the peaks are separated according to different frequencies and wavelength on account to strip movement (Examiner interprets to the best of his knowledge, the claims disclose, wherein a signal is filtered note Bullock col. 4 lines 51-53).

Regarding method claims 17 and 21 Bullock and Task discloses,

The use of the edge boundary of the strip (examiner interprets edge reading as edge boundary of the strip, note Bullock col. 4 lines 49-50)

Regarding method claims 18 and 22 Bullock and Task discloses,

The strip width or cut length is determined from the edge boundary (note Bullock col. 2 lines 57-64 and col. 4 lines 52-61, height or length of strip is determined from edge readings).

Regarding method claims 19 and 23 Bullock and Task discloses,

Computational generation of a reference plane (note Bullock, col. 2 lines 40-43, examiner interprets projected light pattern onto the surface forming a light pattern as generation of reference plane) and of a reference phase image from the geometry of the knowing measuring device elements (note Bullock col. 2 lines 45-50 and 59-61, processed pattern must consider angle of projection examiner interprets as reference phase image).

Regarding method claims 24-27 Bullock and Task discloses,

Characterized that a line pattern is produced on the metal surface (note col. 5 lines 9-10).

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7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bullock and Task as applied to claim 14 above, and further in view of Gassler et al (5,339,154).

Bullock and Task discloses a pattern that is produced with the aid of transparency. Bullock and Task does not clearly disclose expressly the aid as a liquid crystal device. Gassler discloses pattern produced with the aid of a liquid crystal device (note fig. 13, block 3 and 5 in connection with col. 4 lines 55-65, Gassler teaches projection with aid of LCD). Bullock, Task and Gassler are combinable because they teach optical systems from the same field of endeavor. At the time of the invention, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to produce patterns with aid of liquid crystal device in the system of Bullock and Task as evidence by Gassler. The suggestion/motivation for doing so would have been producing different patterns for imaging pattern on an object (note col. 3 lines 22-28. Therefore, it would have been obvious to combine Bullock with Task to obtain the invention as specified in claim 15.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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G.D.
May 14, 2007

GREGORY DESIRE
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Gregory Desire", written in a cursive style.